

Board of Adjustment

Minutes



City Council Chambers, Lower Level
August 12, 2008

Board members Present:

Mike Clement, Chair
Dianne von Borstel, Vice Chair
Garret McCray
Scott Thomas
Terry Worcester
Linda Sullivan
Greg Hitchens

Board members Absent:

Staff Present:

Gordon Sheffield
Jeff McVay
Brandice Elliott
Kelly Arredondo

Others Present:

Troy Myers	Antonio Gavarrete	Robert Brown
Douglas Gardener	Kurt Kramer	

The study session began at 4:42 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 5:58 p.m., the following items were considered and recorded on Board of Adjustment CD #8.

Study Session 4:42 p.m.

- A. The study session began at 4:42 p.m. The items scheduled for the Board's Public Hearing were discussed.
- B. Zoning Administrator update – The Zoning Administrator discussed the 2008 Boards and Commissions Conference, which is scheduled for Friday, December 5, 2008. Boardmembers were instructed to notify staff if they are interested in attending the conference.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the July 8, 2008 Meeting A motion was made to approve the minutes by Boardmember Thomas and seconded by Boardmember Worcester. Vote: Passed 7-0
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Hitchens and seconded by Boardmember Worcester. Vote: Passed 7-0
- C. Second Consent Agenda A motion to approve the second consent agenda as read was made by Boardmember Hitchens and seconded by Boardmember Worcester. Vote: Passed 6-0-1, Thomas abstained

**Board of Adjustment Meeting
August 12, 2008**

Case No.: BA08-033

Location: 857 North Dobson Road

Subject: Requesting a modification of a Special Use Permit (SUP) for a comprehensive sign plan in conjunction with an existing commercial development in the C-2-PAD zoning district.

Decision: Approved with conditions.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Worcester to approve case BA08-033 with the following conditions:

1. *Compliance with sign plan submitted and dated July 11, 2008, except as modified by the conditions listed below.*
2. *The removal of the existing Desert Schools Federal Credit Union sign.*
3. *This approval does not extend to the addition of an attached sign for McDonalds.*
4. *Compliance with all requirements of the Building Safety Division in the issuance of sign permits.*

Vote: Passed 7-0

Findings:

- 1.1 The approved CSP (BA06-005) allows 6 attached signs for Wal-Mart with an aggregate sign area of approximately 510 square feet. The Wal-Mart was also approved for 7 modifier signs that were required to be placed within an architectural sign band that is 12 to 13 feet above finished floor grade. Modifier signs were further required to utilize 12 inch or smaller letters.
- 1.2 No provisions were made within the approved CSP to allow attached signs for tenants within the Wal-Mart. All signs approved were specific to the Wal-Mart alone. The requested modification would permit a 20 square-foot attached sign for the identification of Desert Schools Federal Credit Union, a sub-tenant within the Wal-Mart. The sign would be located 11'-8" above grade.
- 1.3 As justification for the requested modification, the applicant has noted: 1) the sign has been designed to be low-keyed and complimentary to the existing building and signage; 2) the sign will make the bank easier to identify; and 3) the sign will aid in the wayfinding through the development and site, improving safety.
- 1.4 Due to visibility concerns, the applicant wants to place this sign higher on the building wall and illuminate the sign. It has been determined that the Wal-Mart has utilized the entire allotment of attached signage. To be consistent with the intent of the approved CSP, the Desert Schools sign could be permitted as proposed provided an approved Wal-Mart sign of similar size was removed.

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- 1.5** The Desert Schools Federal Credit Union has been located within the Wal-Mart as a service to shoppers of the store. As such, visibility is important once on site. The CSP addressed on-site visibility needs by permitting 7 modifier signs. Provided the sign was centered below the existing "1-Hr. Photo" sign and did not exceed the size proposed, the sign could be considered a modifier sign as defined by the approved CSP. The addition of a modifier sign of no greater than 20 square feet to identify a tenant would be consistent with the approved CSP and result in no change to the approved aggregate sign area and an increase of one modifier sign, to 8 total.

**Board of Adjustment Meeting
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Case No.: BA08-039

Location: 308 South Alma School Road

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) and a Special Use Permit (SUP) to allow placement of an impound lot in the M-1 zoning district.

Decision: Approved with conditions.

Summary: Troy Meyers and Douglas Gardener presented the request for a Substantial Conformance Improvement Permit and Special Use Permit, noting their concern for the limited area that would remain for vehicle display if all recommended landscaping is installed. It was stated that there would not be enough room for the requested planter that would be installed with the new monument sign, due to the existing driveway location.

Mr. McVay presented the staff report for the case, noting support for the Special Use Permit, but indicated that substantial conformance could be better achieved. He acknowledged that the narrow width of the landscape planter would make it difficult to sustain landscape, but there may be options to relocate the sign or redesign it.

Boardmember Clement verified the area that would be used for landscaping.

Mr. Sheffield agreed that increased foundation base around the monument sign would be challenging, as issues with conduits and encroachments would arise. Further, he suggested that there may be an opportunity to elongate the landscape area adjacent to Alma School Road to create a greater visual buffer between the street and parking lot. There was additional discussion concerning the appropriate number of shrubs for the landscape planter.

Mr. McVay completed the staff report, noting that a sufficient number of shrubs have been provided along the rear property line. In addition, the new monument sign should be reviewed by Design Review staff to ensure compliance with Design Guidelines has been achieved.

Mr. McVay recommended modification of condition number 3 to address the driveway location. The revised recommendation would require a 2.5-foot wide planter base that tapered to match the angle of the driveway apron on the north side of the sign and a matching planter on the south side of the sign. A total of eight shrubs would be maintained in the planter. The applicants agreed with the proposed modification.

Motion: It was moved by Boardmember von Borstel, seconded by Boardmember Worcester to approve case BA08-039 with the following conditions:

- 1. Compliance with the revised site and landscape plans dated received August 5, 2008, except as modified by the conditions below.*

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2. *The final design, materials, and color of the new detached monument sign shall receive approval of Design Review staff prior to the issuance of a Sign Permit.*
3. *The landscape planter abutting the base of the new detached monument sign shall be a minimum two and one-half feet (2.5') wide on the north side of the sign and tapered to match the angle of the driveway apron. A matching planter width and shape shall abut the south side of the new detached monument sign base.*
4. *The landscape planter abutting the base of the new detached monument sign shall contain a minimum of six (6) shrubs within each planter.*
5. *All proposed shrubs shall be a minimum five gallon size.*
6. *All existing and required landscape plantings shall be maintained. Any dead or dying landscape plantings shall be replaced with like materials.*
6. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 7-0

Findings:

- 1.1 This request allows the placement of an impound lot and automotive sales on a parcel currently used for automotive sales and vehicle storage. Use of the site as an impound lot is a change in use, necessitating a Special Use Permit and site compliance with current development standards to be allowed. A SCIP has been approved to allow the use of the site without full compliance with current development standards.
- 1.2 The approved impound yard is in conformance with the General Plan designation of General Industrial, would result in a minimal increase in impact to surrounding properties, and is compatible with and not detrimental to surrounding properties. To ensure the impound yard is in conformance with the intent of the Zoning Ordinance, a SCIP has been approved.
- 1.3 The subject site falls within the West Main Street Area Plan planning area and is within an area identified as the industrial corridor. The industrial corridor is envisioned to undergo significant redevelopment. For that reason, the proposed impound yard should be considered a temporary use that may be redeveloped in the future.
- 1.4 Deviations, primarily related to setbacks and foundation base, have been approved. Specifically, the maintenance of the zero-foot setbacks from all property boundaries and limited foundation base. Improvements to the parcel will include: 1) replacement of the nonconforming detached sign with a conforming 10-foot tall, 48 square-foot sign; 2) incorporation of an approximately 2.5 foot wide landscape planter that will contain a total of eight, five gallon shrubs on the north and south sides of the new sign; and 3) provision of an eight-foot block screen wall that will incorporate a three-foot wide landscape planter that will contain seven, five gallon Green Cloud Sage shrubs.

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- 1.5** The approved improvements bring the site into a greater degree of conformance with current Code requirements. Substantial conformance is achieved when the proposed improvements reflect the greatest possible degree of compliance. The conditions of approval provide wider landscape areas at the base of the new monument sign and additional shrubs. The recommended changes are relatively minor in nature and are consistent with the applicant's request.
- 1.6** The provided site plan identifies the location of an existing mechanics work area and an existing vehicle lift. Neither of these uses are housed within a structure, which would be required to allow the repair activity to continue.

**Board of Adjustment Meeting
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Case No.: BA08-040

Location: 1960 East McKellips Road

Subject: Requesting a Development Incentive Permit (DIP) to allow development of a drive-thru restaurant in the C-2 zoning district.

Decision: Approved with conditions

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Worcester to approve case BA08-040 with the following conditions:

1. *Compliance with the revised site and landscape plans dated received July 31, 2008, except as modified by the conditions below.*
2. *Recording of a cross access easement between APN 136-06-020-B and APN 136-06-008-Z with the Maricopa County Recorder's Office prior to the issuance of building permits.*
3. *Compliance with all requirements the Design Review Board (DR08-52).*
4. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 7-0

Findings:

- 1.1 Consistent with the definition of "by-passed", the subject parcel is less than 2.5 acres in size and has been in the current configuration for more than 10 years, has direct access to existing utilities, and is surrounded by developed properties.
- 1.2 The approved site plan has addressed concerns related to cross-access, building location, and drive-thru lane width. A cross-access agreement has been reached in principle between the subject property owner and the surrounding property; the building has been moved to better address the street intersection, resulting in a larger setback from McKellips; and the drive-thru lane turning radius has been limited to 24 feet, resulting in a larger on-site landscape area adjacent to the parking field. The approved plan received Design Review Board approval at the July 2, 2008 meeting. Comments received from the Design Review Board have been incorporated into the approved plan.
- 1.3 Sufficient justification exists to approve the requested DIP. The subject property is consistent with the definition of a bypassed parcel, the incentives proposed are necessary to accommodate the proposed development, the incentives approved will allow development commensurate with surrounding existing development, and the incentives will result in a development compatible with, and not detrimental to, adjacent properties or neighborhoods.

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Case No.: BA08-042

Location: 848 South Alma School Road

Subject: Requesting: 1) a Substantial Conformance Improvement Permit (SCIP) to allow expansion of a group commercial development; and 2) a variance to allow the total number of parking spaces below the minimum required; both in the C-2 zoning district.

Decision: Approved with conditions

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Worcester to approve case BA08-042 with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions below.*
2. *The existing chain link fence adjacent to the south building elevation of the existing retail shops located east of the daycare facility shall be replaced with a decorative fence that complies with design guidelines.*
3. *The parking area located at the southwest corner of the property shall remain open to the public during normal business hours.*
4. *Provision of a minimum of sixteen (16), five (5) gallon shrubs within the landscape setback adjacent to the west property line near the daycare facility in addition to the landscaping identified on the landscape plan.*
5. *Provision of a minimum of six (6), five (5) gallon shrubs within the landscape setback adjacent to the south property line near the daycare facility in addition to the landscaping identified on the landscape plan.*
6. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 7-0

Findings:

- 1.1 The approved SCIP allows expansion of an existing commercial development to allow for an addition and larger playground area that will be accessory to an existing daycare facility, and the development of a 3,500 square foot retail pad building. The existing development was approved by City Council in 1986, and is a legal nonconforming site in that it does not comply with current Code in regards to landscape setbacks, landscape quantities, foundation base, and parking lot landscape islands.
- 1.2 Consistent with the requirements to review a SCIP, full compliance with current Code development standards would require significant alternation to the existing development site, including demolition of existing buildings, further elimination of on-site parking, and possible disruption of vehicular circulation. The proposed improvements to the site will bring it closer to compliance with current Code.

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- 1.3** The approved deviations allow improvement to a nonconforming site with design elements that will bring the site closer to compliance with current Code requirements related to parking lot landscape islands and perimeter landscape. The existing landscape setbacks will be either maintained or increased with the approved developments. Therefore, the approved site plan, including conditions of approval, provides substantial conformance with current standards and will be compatible with and not detrimental to the surrounding neighborhood.
- 1.4** The provided parking study utilizes the Tempe Standard Shared Parking Model (TSSPM), which estimates the parking demand of a specific mix of uses. It assumes that every separate use will need the full amount of parking that is required by Code at some point during the day, or peak period. The parking study predicts a peak demand of 371 vehicles at approximately 2:00 pm on Saturday afternoons. This is the maximum number of parking spaces that would be required at any given time, as Saturday peak demand is significantly higher than weekday peak demand. Given that 381 parking spaces would be provided, the study suggests that adequate parking would be provided to serve the development.
- 1.5** Chuck E. Cheese is a unique restaurant in that most of the floor area is devoted to arcade games and other activities. In addition, a larger portion of the restaurant's floor area is dedicated to kitchen and storage and is not useable by patrons than is typical of a sit-down restaurant, upon which the parking requirement is based. Further, individuals that visit the restaurant area tend to be the same individuals that play games in the arcade, which does not generate additional traffic. As a result, Chuck E. Cheese is likely over-parked for the services it provides.
- 1.6** The car wash facility requires parking in excess of what is actually used. Typically, the customer's vehicle is left to the facility employees to run through the car wash, followed by other detailing and drying services. The vehicles are parked under canopies while these services are being performed, and account for most of the parking associated with the car wash. As a result, most of the required parking for the car wash is underutilized.
- 1.7** The applicant has provided evidence of a unique condition related to the property, which is necessary for justifying a variance for the number of parking spaces. Further, the shared parking model is a reasonable alternative to current Code that adequately defines the parking needs of the development, while allowing reinvestment in the property.

**Board of Adjustment Meeting
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Case No.: BA08-043

Location: 1606 South Signal Butte Road

Subject: Requesting a modification of a Special Use Permit (SUP) for a comprehensive sign plan in conjunction with an existing commercial development in the C-2-DMP zoning district.

Decision: Continued to the September 9, 2008 hearing.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Worcester to continue case BA08-043 for 30 days to the September 9, 2008 hearing.

Vote: Passed 6-0-1 (Thomas abstained)

Findings: N/A

Respectfully submitted,

Jeffrey McVay, AICP
Senior Planner
Secretary, Board of Adjustment

Minutes written by Brandice Elliott, Planner I

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